

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3386

FISCAL
NOTE

By Delegates Kimble, Mazzocchi, Kelly, Jeffries,
Phillips, Hanshaw (Mr. Speaker), Capito, McGeehan,
Horst, Kirby, and Warner

[Introduced February 13, 2023; Referred to the
Committee on Education then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section
 2 designated §18C-10-1, relating to creating the West Virginia National Merit Scholarship
 3 Program; setting forth definitions; defining powers and duties of the West Virginia Higher
 4 Education Policy Commission; establishing requirements; authorizing rulemaking; and
 5 creating special revenue fund.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10. WEST VIRGINIA NATIONAL MERIT SCHOLARSHIP PROGRAM.

§18C-10-1. West Virginia National Merit Scholarship Program; definitions; powers and duties of commission; requirements; funding.

1 (a) Title. This article may be cited as the West Virginia National Merit Scholarship Program.

2 (b) Findings. The legislature finds that a large percentage of graduates from the state
 3 colleges and universities do not work in the state after graduation. This is particularly true for
 4 students who are recipients of the prestigious National Merit Scholarship. There is a need to
 5 influence increased numbers of students to remain in West Virginia for college and ultimately for
 6 work, especially those students who are recognized as the highest academic achievers.

7 (c) Definitions.

8 (1) "Eligible institution" means:

9 (A) A state institution of higher education as defined in §18B-1-2 of this code;

10 (B) A state institution ceases to be an eligible institution if it meets either of the following
 11 conditions:

12 (i) It loses regional accreditation; or

13 (ii) It changes its status as a private, not-for-profit institution;

14 (C) Any other public regionally accredited institution in this state approved by the
 15 commission.

16 (2) "National Merit Scholarship" means that honor achieved by recipients of the
 17 scholarship from the National Merit Scholarship Corporation. For purposes of this article, the

18 student must be selected as a National Merit Scholar and not merely qualify as a finalist.

19 (3) "Tuition" means the quarter, semester or term charges imposed by an eligible state
20 institution of higher education, including room and board for on-campus housing and on-campus
21 meal plans, and, additionally, all mandatory fees required as a condition of enrollment by all
22 students. For the purposes of this article, the following conditions apply:

23 (A) West Virginia University, Potomac State College and West Virginia University Institute
24 of Technology are considered separate institutions for purposes of determining tuition rates; and

25 (B) The tuition amount paid by undergraduate health sciences students at West Virginia
26 University is considered to be the same as the amount of tuition paid by all other West Virginia
27 University undergraduate students.

28 (3) "Enrolled" means either currently enrolled or in the process of enrolling in an eligible
29 institution.

30 (d) Powers of West Virginia Higher Education Policy Commission. — In addition to the
31 powers granted by any other provision of this code, the commission has the powers necessary or
32 convenient to carry out the purposes and provisions of this article including, but not limited to, the
33 following express powers:

34 (1) To promulgate legislative rules in accordance with the provisions of §29-3A-1, et seq. of
35 this code to effectuate the purposes of this article;

36 (2) To invest any of the funds of the West Virginia National Merit Scholarship Fund
37 established in this article with the West Virginia Investment Management Board. Any investments
38 made pursuant to this article shall be made with the care, skill, prudence and diligence under the
39 circumstances then prevailing that a prudent person acting in a like capacity and familiar with such
40 matters would use in conducting an enterprise of a like character and with like aims. Fiduciaries
41 shall diversify plan investments to the extent permitted by law to minimize the risk of large losses,
42 unless under the circumstances it is clearly prudent not to do so;

43 (3) To execute contracts and other necessary instruments;

44 (4) To impose reasonable requirements for residency for students applying for the National
45 Merit Scholarship Program award; and

46 (5) To contract for necessary goods and services, to employ necessary personnel and to
47 engage the services of private persons for administrative and technical assistance in carrying out
48 the responsibilities of the scholarship program. Any services provided or secured to implement or
49 administer the provisions of this section remain under the direction and authority of the Vice
50 Chancellor for Administration;

51 (6) To solicit and accept gifts, including bequests or other testamentary gifts made by will,
52 trust or other disposition, grants, loans and other aid from any source and to participate in any
53 federal, state or local governmental programs in carrying out the purposes of this article;

54 (7) To define the terms and conditions under which scholarships are awarded with the
55 minimum requirements being set forth in this article; and

56 (8) To establish other policies, procedures and criteria necessary to implement and
57 administer the provisions of this article.

58 (e) Duties of commission. In addition to any duty required by any other provision of this
59 code, the commission has the following responsibilities:

60 (1) To operate the program in a fiscally responsible manner and within the limits of
61 available funds;

62 (2) To operate the program as a merit-based program; and

63 (3) To maintain contact with graduates who have received the National Merit Scholarship
64 award and to provide a written statement of intent to recipients who are selected to receive a
65 scholarship notifying them that acceptance of the scholarship entails a responsibility to supply the
66 following:

67 (A) Information requested by the commission to determine the number and percentage of
68 recipients who shall:

69 (i) Continue to live in West Virginia after graduation;

- 70 (ii) Obtain employment in West Virginia after graduation; and
- 71 (iii) Enroll in post-graduate education programs;
- 72 (B) For National Merit Scholarship award recipients who enroll in post-graduate education
- 73 programs, the name of the state in which each post-graduate institution is located; and
- 74 (C) Any other relevant information the commission reasonably requests to implement the
- 75 provisions of this subdivision.
- 76 (f) Scholarship requirements.
- 77 (1) A National Merit Scholarship annual award shall meet the following conditions:
- 78 (A) For a student enrolled in a state institution of higher education or an eligible institution
- 79 other than a state institution of higher education, the annual award is equal to the cost of tuition
- 80 and room and board: *Provided*, That the student lives in on-campus housing and is enrolled in an
- 81 on-campus meal plan;
- 82 (B) In no case may the annual award be greater than the actual cost of tuition and room
- 83 and board: *Provided*, That the student lives in on-campus housing and is enrolled in an on-campus
- 84 meal plan;
- 85 (C) The annual award shall be used by an eligible institution to supplement, but may not
- 86 supplant, a tuition and fee waiver for which the individual is eligible pursuant to §18B-10-5, §18B-
- 87 10-6a, §18B-10-7, or §18B-10-7b of this code.
- 88 (2) The total cost of all scholarships awarded by the commission in any year may not
- 89 exceed the amount of funds available to the commission during that fiscal year.
- 90 (3) In order to be eligible to receive a National Merit Scholarship award, an individual shall:
- 91 (A) Submit a scholarship award application to the commission verifying that the individual
- 92 has been selected as a National Merit Scholarship recipient:
- 93 (B) Apply for and submit a Free Application for Federal Student Aid;
- 94 (C) Maintain a grade point average of at least 3.5 on a 4.0 grading scale in the required
- 95 core and elective course work necessary to prepare students for success in post-secondary

96 education at the associate and baccalaureate degree levels as determined by the commission, if
97 the individual has completed not more than one semester or term at an institution of higher
98 education, excluding credits earned in advanced placement, international baccalaureate, dual
99 credit, and comparable courses while the student is enrolled in high school;

100 (D) Maintain appropriate academic progress toward the completion of a degree at the
101 undergraduate education level as determined by the commission if the individual has completed
102 more than one semester or term at an institution of higher education, excluding credits earned in
103 advanced placement, international baccalaureate, dual credit and comparable courses while the
104 student is enrolled in high school;

105 (E) Be a United States citizen or legal immigrant to the United States;

106 (F) Meet additional objective standards the commission considers necessary to promote
107 academic excellence and to maintain the financial stability of the fund; and

108 (G) Enroll in an eligible institution. A student enrolled at an eligible institution who receives
109 a National Merit Scholarship Program award may retain and renew the scholarship to complete his
110 or her undergraduate education at that institution or any other eligible institution under the
111 following circumstances:

112 (i) The institution at which the student is enrolled loses its status as an eligible institution
113 pursuant to the provisions of §18B-7-3(b)(1) of this code; and

114 (ii) The student meets all other renewal requirements of this code and of commission rules.

115 (g) The commission shall promulgate a legislative rule in accordance with the provisions of
116 §29A-3A-1 et seq. of this code.

117 (1) The rule shall include at least the following provisions:

118 (A) The amount of a National Merit Scholarship award in combination with aid from all other
119 sources may not exceed the cost of education at the institution the recipient is attending.

120 (B) Additional objective standards the commission considers necessary:

121 (i) To promote academic excellence;

- 122 (ii) To maintain the financial stability of the fund; and
- 123 (iii) To operate the program within the limits of available funds;
- 124 (C) Provisions for making the highest and best use of the National Merit Scholarship
125 Program in conjunction with the West Virginia College Prepaid Tuition and Savings Program Act
126 set forth in §18-30-1 et seq. of this code;
- 127 (D) A provision defining the relationship of National Merit Scholarship awards to all other
128 sources of student financial aid to ensure maximum coordination. The provision shall include the
129 following:
- 130 (i) Methods to maximize student eligibility for federal student financial aid; and
- 131 (ii) Clarification of the relationship between the National Merit Scholarship Program, tuition
132 savings plans and other state-funded student financial aid programs;
- 133 (E) A method for awarding scholarships within the limits of available appropriations,
134 including circumstances when program funds are not sufficient to provide awards to all eligible
135 applicants. The commission may not use any of the following methods:
- 136 (i) Providing for an annual National Merit Scholarship award that is less than the amounts
137 provided for in this article; or
- 138 (ii) Eliminating any current recipient from eligibility.
- 139 (2) The Legislature finds that an emergency exists and, therefore, the commission shall file
140 a rule to implement the provisions of this section as an emergency rule pursuant to the provisions
141 of §29A-3A-1 et seq. of this code. The rule is subject to the prior approval of the Legislative
142 Oversight Commission on Education Accountability.
- 143 (h) *National Merit Scholarship Fund.*
- 144 (1) There shall be created a special revenue fund in the state Treasury designated and
145 known as the National Merit Scholarship Program Fund. The fund consists of moneys from the
146 following sources:
- 147 (A) All appropriations by the Legislature for the National Merit Scholarship Fund;

- 148 (B) Any gifts, grants or contributions received for the National Merit Scholarship Program
149 Fund; and
- 150 (C) All interest or other income earned from investment of the fund.
- 151 (2) The allocations to the fund are subject to appropriation by the Legislature. Nothing in
152 this article requires any specific level of funding by the Legislature nor guarantees nor entitles any
153 individual to any benefit or grant of funds.
- 154 (i) *Funding.* For the fiscal year beginning July 1, 2024, it is the intent of the Legislature that
155 the aggregate of the amount of moneys transferred to the fund, and any other amounts of public
156 moneys that may be transferred to the fund by appropriation of the Legislature, shall equal, but
157 may not exceed, \$2 million. For each fiscal year thereafter, it is the intent of the Legislature that this
158 aggregate be an amount one percent greater than the aggregate established by this article for the
159 prior fiscal year.
- 160 (3) The commission may expend the moneys in the fund to implement the provisions of this
161 article.

NOTE: The purpose of this bill is to create the West Virginia National Merit Scholarship Program. The bill sets forth definitions; defines powers and duties of the West Virginia Higher Education Policy Commission; establishes requirements; authorizes rulemaking; and creates a special revenue fund.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.